37th JUDICIAL CIRCUIT COURT
FAMILY DIVISION
Friend of the Court

Motion Regarding Modification of Custody, Parenting Time and Child Support Orders

Forms and Instructions

2014 Edition

Form FOC 87

MOTION REGARDING CUSTODY

Use this form if:

- you have a pending case for custody, divorce, separate maintenance, family support or paternity; or
- you are a party who has a custody order through a judgment of custody, divorce, separate maintenance, or family support order, or an order of filiation.

You cannot use this form:

- to start a custody case; or
- if you are a third party and want to intervene to get custody of the child(ren) in a pending case for custody, divorce, separate maintenance, family support, or paternity.

MOTION CHECKLIST

Use the following checklist to make sure you have done all the steps that are needed.

DID YOU . . .

1. Fill out all requested information on the form? YES ☐
2. Complete and attach MC 416, Uniform Child Custody Jurisdiction Enforcement Act Affidavit? YES ☐
3. Make all necessary copies? YES ☐
4. Pay the fees to the circuit court clerk? YES ☐
5. Mail (serve) a copy of the motion and MC 416 on the other party and on any other custodian/guardian after the referee and hearing date were assigned to your case by the referee assistant? YES ☐
6. Return to the clerk's office **after** you mailed the motion and notice of hearing and MC 416 to the other party and completed the certificate of mailing? YES ☐
7. Keep one copy of the motion and notice of hearing and MC 416 forms for yourself? YES ☐
8. Give two copies of the completed form to the circuit court clerk? YES ☐

If you cannot answer "yes" to all the above steps, a hearing on your motion may be delayed or your motion may be dismissed.

By using this form packet you are representing yourself in a court action regarding custody. In order to receive the action you seek, you must follow the instructions in this packet. If you fail to do even one of the required steps, the order you get from the court may not give you the custody you want.

If you have any questions about any steps in the process, refer to pages 3 through 5 of this booklet for details.

INSTRUCTIONS FOR USING FORM FOC 87
FILING A MOTION AND SERVING A MOTION

»» FILING A MOTION

1. Fill out the Motion form.

Use the instructions on page 6. Be careful not to make mistakes.

Before filling out the "Notice of Hearing" part of the form, contact the friend of the court office to find out whom to contact about getting a hearing date at (269) 969-6500. Then contact the person or office as directed by the friend of the court office. Fill in the form with the information you get about the hearing date, location of hearing, and name of the referee who will be hearing the motion.

Make at least five copies of the form after you have filled it out.

2. Fill out MC 416, Uniform Child Custody Jurisdiction Enforcement Act Affidavit.

3. File the Motion form and MC 416 with the circuit court clerk.

Take the original and five copies of the form and MC 416 to the circuit court clerk in the county where your case is located.

You must pay a $20.00 motion fee and an $80.00 judgment and order entry fee when the motion and MC 416 are filed. If you can't afford to pay the fees, ask the clerk for an Affidavit and Order, Suspension of Fees/Costs (form MC20 not included in this packet) to fill out.

The clerk will write the name of the judge assigned to your case on your form. The clerk will keep the original and one copy of the motion, MC 416 and any attachments for the court file and the friend of the court. Then the clerk will return four copies and remaining attachments to you. Do not lose them.

What you should have when you leave the clerk's office:

One copy of FOC 87 and MC 416 (with any attachments) - for you
One copy of FOC 87 and MC 416 (with any attachments) - for the other party
One copy of FOC 87 - for proof of service to the court
One copy of FOC 87 - for proof of service to the friend of the court

»» SERVING THE MOTION ON THE OTHER PARTY OR PARTIES

1. Serve the Motion, MC 416 and Notice of Hearing on the other party.

The other parent, or other party (if there is a custodian or guardian other than a parent) must be served with (notified of) the motion and hearing date at least 9 days before the hearing date.

NOTE: Serve the papers by mailing them to the other party by first-class mail.

What you need for service:

One copy of FOC 87 and MC 416 (with any attachments) - for the other party
Two copies of FOC 87 - for proof of service
Any additional copies of FOC 87 and MC 416 (with any attachments) - for another custodian or guardian if there is someone other than the other parent who has care or custody of the child(ren)

Mail one copy with attachments and MC 416 to the other party. If there is a custodian or guardian, mail one copy with attachments and MC 416 to them. Then fill out the Certificate of Mailing on the front of the remaining three copies. Keep one copy of the forms and attachments for your own records.

2. **Return to the circuit court clerk.**

   Once you have mailed the motion and notice of hearing and MC 416 and filled out the Certificate of Mailing on the remaining three copies of FOC 87, return to the circuit court clerk's office with two copies. Remember to keep one copy for your own records. The clerk will deliver one copy to the friend of the court.

3. **Response from other party.**

   If you receive a response to your motion from the other party, make sure you read it before you attend the hearing. Think about what you want to say on your behalf.

4. **Attend the hearing.**

   You must attend the hearing on the motion.

»» INFORMATION ABOUT ATTENDING THE HEARING

Bring the original and five copies of the Order Regarding Custody (form FOC 89) and, as needed, the Uniform Child Support Order (form FOC 10/52) with you to the hearing. Also bring all supporting papers you have and any witnesses who are willing to testify.

1. Because you are representing yourself, you are expected to conduct yourself as an attorney would and to follow the same general rules an attorney would.

2. Make a list of information you think is important for the referee to know. The information should relate to the reasons stated in your motion. You can use this list as a reminder to bring up the points you think are important.

3. If you think you need to order someone to attend this hearing, follow the procedure in Michigan Court Rule 2.506 or consult with an attorney.

4. Go to the referee's hearing room on the scheduled day and time. Dress neatly. Arrive 10 or 15 minutes early. Be prepared to spend most of the morning or afternoon in court. Bring any witnesses with you.

5. If you are responsible for preparing the order, bring all copies of your order form.

6. Go into the referee hearing room and tell the referee your name, that you are there for a hearing, and you are representing yourself. Do not interrupt any hearing in progress. Then take a seat in the back of the room and wait for your case to be called.

7. When your case is called, be prepared to state:

   1) your name.

   2) that you are representing yourself.

   3) that you need a custody order or a change in a custody order.

   4) the facts or reasons for your request **(bring papers such as reports that support your facts or reasons including income information such as pay stubs, W-2 forms, income tax forms, etc.)**.

   5) why you believe this order would be in the best interests of the child(ren).

   6) whether you have witnesses in court who are willing to testify.

   Answer the referee's questions clearly and directly. If the referee wants to hear from the other witnesses, ask them to tell the court what they saw or know regarding your situation.

8. If the other party is in court, he or she will have a chance to speak also. When the other party talks, take notes. Do not interrupt the other party. After the other party speaks, you will have another chance to talk. Taking notes will help you with this.

9. After the referee makes a decision, follow the instructions on the packet for FOC 89, "Order Regarding Custody and Parenting Time." As needed, follow the instructions for the packet for FOC 10/52, "Uniform Child Support Order," to complete that part of the order. You are responsible for preparing the order even if you do not get what you are asking if the referee tells you to.

NOTE: If your hearing was held before a referee and you do not agree with the referee's decision, you have 21 days from the date you receive the referee's recommendation to file an objection and request a de novo hearing before the judge. Use the packet FOC 68, "Objection to Referee's Recommended Order."

INSTRUCTIONS FOR COMPLETING "MOTION REGARDING CUSTODY"

Please print neatly. After filling in the form, you will need to make at least five copies of the form.

Items A through J must be completed before your motion can be filed with the court. Please read the instruction for each item. Then fill in the correct information for that item on the form.

A Before you fill in the Case No., get your court papers for custody, divorce, separate maintenance, family support or paternity and copy the Case No. from those court papers onto this form.

B Also use your court papers to fill in the "Plaintiff" and "Defendant" boxes, and if applicable, the "Third Party" box. Copy the names from these court papers onto this form. For example, if your name is in the box that says "plaintiff," then you should write your name in the "plaintiff" box on this motion form.

You are the "moving party." Once you have written the names where they belong, you must check the box "moving party" in the same box as your name.

C **Check only one box.** If you have a judgment or order for custody, divorce, separate maintenance, family support, or paternity, read it carefully to find out if there is any information in it about custody. If there is information about custody, check box a. If there is no information about custody, check box b.

D Check this box only if you checked box a. in **C** above. Read your court papers for custody, divorce, separate maintenance, family support, or paternity to find out who was ordered to have custody. Write this information here along with the name(s) of the child(ren).

E State who the child(ren) are living with now, the address or location where the child(ren) are living, and the date the child(ren) started living there even if it is different than what was ordered.

F State the circumstances that require a custody order or a change in custody. **Explain in** as much **detail** as possible what has happened. If you need more space, use a separate sheet of paper. Print this information as neatly as you can. You will need four copies of this sheet to attach to four copies of this form.

G State the causes that require a custody order or a change in custody. The judge or referee will review these causes using factors from the Child Custody Act to determine the best interests of the child. **Explain in** as much **detail** as possible what the causes are. If you need more space, use a separate sheet of paper. Print this information as neatly as you can. You will need four copies of this sheet to attach to four copies of this form.

H Check this box if you and the other party agree about custody. **Explain in** as much **detail** as possible what you agreed to including support and parenting time. If you need more space, use a separate sheet of paper. Print this information as neatly as you can. You will need four copies of this sheet to attach to four copies of this form.

I You need to **explain in** as much **detail** as possible what you want the court to order. If you checked **H** above, you only need to write "Same as 7. above." If you need more space, use a separate sheet of paper. You need to include information about support and parenting time as well. Print this information as neatly as you can. You will need four copies of this sheet to attach to four copies of this form.

J Write in today's date and sign your name. Now contact the the friend of the court office in your county to find out how to get a hearing date. See page 3 of this booklet for details.

K Once you get a hearing scheduled, fill in the full name of the referee who will be hearing this motion, the date of the hearing, the time of the hearing (include whether it is a.m. or p.m.), and the place of the hearing.

- Now go to the circuit court clerk's office with the original and five copies of this form and the four copies of each separate sheet. The clerk will attach one copy of each separate sheet to four of the copies. The clerk will return four copies to you. Read page 3 of this booklet for details on mailing this form to the other party.

L On the date you mail one copy (and the separate sheets) to the other party, write in the date and sign your name on the remaining three copies.

- Return to the circuit court clerk with two copies. See page 4 of this booklet for details.

You must read this booklet for directions on the legal process.

Approved, SCAO

Original - Court
1st copy - Other party
2nd copy - Moving party
3rd copy - Friend of the court
4th copy - Proof of service
5th copy - Proof of service

STATE OF MICHIGAN 37TH JUDICIAL CIRCUIT CALHOUN COUNTY	MOTION REGARDING CUSTODY	(A) CASE NO.

Court address 161 East Michigan Avenue, Battle Creek MI 49014

Telephone no. (269) 969-6500

(B) Plaintiff's name, address, and telephone no. ☐ moving party

v

Defendant's name, address, and telephone no. ☐ moving party

Third party name, address, and telephone no. ☐ moving party

(C) 1. ☐ a. On _____ (Date) a judgment or order was entered regarding custody.

☐ b. There is currently no order regarding custody.

2. Attached is a completed Uniform Child Custody Jurisdiction Enforcement Act Affidavit (MC 416).

(D) ☐ 3. The ☐ plaintiff ☐ defendant ☐ third party was ordered to have custody of the following child(ren):

(E) 4. The child(ren) have been living with _____ (Name(s)) at _____ (Complete address) since _____ (Date).

(F) 5. Circumstances have changed as follows that require custody or a change in custody:
Use a separate sheet to explain in detail what has happened and attach. Include all necessary facts.

(G) 6. Proper cause exists as follows that require custody or a change in custody: Use a separate sheet to explain in detail which factors of the Child Custody Act for determining best interests of the child(ren) are affected by the circumstances in 5 above. Include all necessary facts.

(H) ☐ 7. _____ (Name) and I agree to custody, support, and parenting time as follows:
Use a separate sheet to explain in detail what you have agreed on and attach. Include all necessary facts.

(I) 8. **I ask the court to order that custody, parenting time, and support be** as follows:
Use a separate sheet to explain in detail what you want the court to order and attach.

(J) _____ (Date) _____ (Moving party's signature)

NOTICE OF HEARING

A hearing will be held on this motion before _____ (Judge/Referee)

(K) on _____ (Date) at _____ (Time) at _____ (Location).

If you require special accommodations to use the court because of a disability, or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements. When contacting the court, provide your case number(s).

NOTE: If you are the person receiving this motion, you may file a response. Contact the friend of the court office and request form FOC 88.

CERTIFICATE OF MAILING

I certify that on this date I served a copy of this motion, a Uniform Child Custody Jurisdiction Enforcement Act Affidavit, and notice of hearing on the parties or their attorneys by first-class mail addressed to their last-known addresses as defined in MCR 3.203.

(L) _____ (Date) _____ (Moving party's signature)

Approved, SCAO

Original - Court
1st copy - FOC (if applicable)
2nd copy - Defendant/Respondent
3rd copy - Plaintiff/Petitioner

STATE OF MICHIGAN 37th JUDICIAL CIRCUIT PROBATE COURT CALHOUN COUNTY	UNIFORM CHILD CUSTODY JURISDICTION ENFORCEMENT ACT AFFIDAVIT	CASE NO.

Court address 161 East Michigan Avenue, Battle Creek MI 49014

Court telephone no. (269) 969-6500

CASE NAME:

1. The name and present address of each child (under 18) in this case is:

2. The addresses where the child(ren) has/have lived within the last 5 years are:

3. The name(s) and present address(es) of custodians with whom the child(ren) has/have lived within the last 5 years are:

4. I do not know of, and have not participated (as a party, witness, or in any other capacity) in any other court decision, order, or proceeding (including divorce, separate maintenance, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence) concerning the custody or parenting time of the child(ren), in this state or any other state, **except**: Specify case name and number, court name and address, and date of child custody determination, if one.

5. I do not know of any pending proceeding that could affect the current child custody proceeding, including a proceeding for enforcement or a proceeding relating to domestic violence, a protective order, termination of parental rights, or adoption, in this state or any other state, **except**: Specify case name and number, court name and address, and nature of the proceeding.

   That proceeding ☐ is continuing. ☐ has been stayed by the court.
   ☐ Temporary action by this court is necessary to protect the child(ren) because the child(ren) has/have been subjected to or threatened with mistreatment or abuse or is/are otherwise neglected or dependent. Attach explanation.

6. I do not know of any person who is not already a party to this proceeding who has physical custody of, or who claims rights of legal or physical custody of, or parenting time with, the child(ren), **except**: State name(s) and address(es) of each person.

7. The child(ren)'s "home state" is _____ . See back for definition of "home state."

☐ 8. I state that a party's or child's health, safety, or liberty would be put at risk by the disclosure of this identifying information.

I have filled this form out completely, and I acknowledge a continuing duty to advise this court of any proceeding in this state or any other state that could affect the current child-custody proceeding.

_____	_____	_____
Signature of affiant	Name of affiant (type or print)	Address of affiant

Subscribed and sworn to before me on _____ (Date), _____ County, Michigan.

My commission expires: _____ (Date) Signature: _____

Notary public, State of Michigan, County of _____

"Home state" means the state in which the child(ren) lived with a parent or a person acting as a parent for at least 6 consecutive months immediately before the commencement of a child-custody proceeding. In the case of a child less than 6 months of age, the term means the state in which the child lived from birth with a parent or person acting as a parent. A period of temporary absence of a parent or person acting as a parent is included as part of the period.